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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/799,037	03/11/2004	Vincent P. Walker	00216-667001 / Case 8137	6724
26161 7590 11/21/2008 FISH & RICHARDSON PC P.O. BOX 1022 MINNEAPOLIS, MN 55440-1022				
EXAMINER				
LANDRUM, EDWARD F				
ART UNIT		PAPER NUMBER		
3724				
NOTIFICATION DATE		DELIVERY MODE		
11/21/2008		ELECTRONIC		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

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UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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*Ex parte* VINCENT P. WALKER

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Application No. 10/799,037  
Technology Center 3700

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Mailed: November 20, 2008

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Before PAMELA S. BENNETT, *Review Team Paralegal*  
BENNETT, *Review Team Paralegal*.

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was electronically received by the Board of Patent Appeals and Interferences on September 11, 2008. A review of the application revealed that it is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the Examiner to address the following matter requiring attention prior to docketing.

**EXAMINER'S ANSWER, GROUNDS OF REJECTION**

A review of the file finds that the grounds of rejection of the claims as provided in the Examiner's Answer mailed December 6, 2007 under the heading "Grounds of Rejection" is not consistent with the grounds of rejection of claims set forth in the last Office action of record. The grounds of rejection of the claims as provided in the Examiner's Answer must be consistent with the last Office action of record, including any Advisory action responsive to any after final submissions. Each grounds of rejection to be reviewed on appeal must be identified and any new grounds of rejection must be provided under a separate heading "New Grounds of Rejection" in the Examiner's Answer and must include the approval of the TC Director or his/her designee. *See also Manual of Patent Examining Procedure* (MPEP) § 1207.02 and 1207.03 (8<sup>th</sup> ed. Rev. 6, Sept 2007) for details.

A review of the Examiner's Answer finds a new Ground of Rejection that has not been provided the required heading "New Grounds of Rejection" and/or which does not include the approval of the TC Director or his/her designee.

Specifically, page 2 of the Examiner's Answer sets forth a rejection of claims 1-6, 11, 24 and 26 as being rejected under 35 U.S.C. § 102(b); whereas, page 2 of the last Office action, including any mailed Advisory Actions, finds that claims 1-6, 24 and 26 are rejected under 35 U.S.C. § 102(b) [Final Rejection mailed May 16, 2007]. Correction of all Grounds of rejection for all claims is required.

**CONCLUSION**

Accordingly, it is **ORDERED** that the application be returned to the Examiner:

- 1) to vacate the Examiner's Answer mailed December 6, 2007;
- 2) to generate a new Examiner's Answer setting forth the correct Grounds of rejection and to correct other sections of the Answer as may be required;
- 3) to include the approval of the TC Director or his/her designee (as required for any new grounds of rejection)<sup>1</sup>; and
- 4) for such further action as may be appropriate.

If there are any questions pertaining to this Order, please contact the Board of Patent Appeals and Interferences at 571-272-9797.

PSB

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<sup>1</sup> Technology Center 3700 requires the signature of a Director.